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July 28, 2014

VIA ECF

Hon. Denise L. Cote
United States District Judge
500 Pearl St., Room 1610
New York, N.Y. 10007

Re: FHFA v. HSBC
11 Civ. 6189 (DLC)

Dear Judge Cote:

I write on behalf of the “HSBC Parents” to respond to the FHFA’s July 21 letter motion (ECF #853) for the issuance of notice under Fed. R. Civ. P. 56(f)(1) that the Court will consider granting summary judgment against the HSBC Parents on the control-person issue raised by the HSBC Parents’ motion for summary judgment. FHFA asks additionally that the HSBC Parents be directed to marshal in the reply brief due next Monday, August 4, the evidence that would prevent the entry of judgment against the HSBC Parents.

FHFA’s Rule 56(f) application is, in effect, a cross-motion for summary judgment filed well past the deadline. After FHFA filed it, HSBC indicated to FHFA that we would not object to issuance of the requested Rule 56(f) notice so long as FHFA consented to (a) 20 pages for the reply brief and (b) a due date in the week of August 18, to allow time for HSBC to marshal evidence required to respond to FHFA’s lengthy 56.1 statement and to oppose what would be, in effect, an FHFA motion for summary judgment. FHFA said that it would not object to a 20-page reply but that it would not agree to extend the briefing schedule.

Accordingly, the HSBC Parents oppose the FHFA letter motion. If the Court nevertheless determines that it should issue the requested Rule 56(f) notice, HSBC respectfully requests a 20-page limit for the reply brief and a due date in the week of August 18.

Respectfully submitted,

/s/ Michael O. Ware

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cc: FHFA counsel via ECF